IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

CRP.No. 1023 of 1999(H)

(*CR.47/1973 of TALUK LAND BOARD, TIRUR*)

REVN. PETITIONER:

MACHINCHERI SAIDALIKUTTY HAJI,
S/O. UNNEENKUTTY HAJI, KATTIPARUTHY VILLAGE,
MALAPPURAM DISTRICT.

BY ADV. SRI.T.KRISHNAN UNNI

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY, TRIVANDRUM.

2. TALUK LAND BOARD, TIRUR, MALAPPURAM DISTRICT.

BY GOVERNMENT PLEADER SHRI K.G. BHASKARAN.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON C.M.P.NO. 2138 OF 1999 IN C.R.P. No. 1023 OF 1999.

DISPOSED OF.

20.08.2007 SD/- K.T. SANKARAN, JUDGE.

/TRUE COPY/

P.A. TO JUDGE.

K.T. SANKARAN, J.

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C.R.P No. 1023 OF 1999

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Dated this the 20th August, 2007

O R D E R

The revision is filed by one of the legal representatives of the declarant.

2. As per the final order dated 29.10.1982, the declarant was directed to surrender an extent of 45.60 acres of land. Against the order dated 29.10.1982, some of the legal representatives of the declarant filed C.R.P.No. 3497 of 1982. A Full Bench of this court, by order dated 15.11.1991 allowed the revision and the Ceiling Case was remanded to the Taluk Land Board for fresh decision in accordance with the observations contained in the judgment.

3. This court directed that the Taluk Land Board shall exclude the lands covered by gift deeds executed by the declarant between the period from 01.01.1970 and 05.11.1974, if the conditions prescribed under sub-section (1A) of Section 84 are satisfied. Certain other extents of land were also directed to be excluded. The Taluk Land Board was further directed to re-compute the extent of land to be surrendered . An opportunity to exercise fresh option was also afforded to the declarant .

4. After remand, the Taluk Land Board passed an order dated 27.04.1999, which is impugned in this Revision directing the declarant to surrender an extent of 20.71 ordinary acres equivalent to 11.35 standard acres.

5. The revision petitioner has raised various grounds in challenge against the order impugned. It is contended that the entire extent of land covered by document No.1389 of 1971 is to be excluded. The Taluk Land Board has excluded only an extent of 1.81 acres in R.Sy. No. 377 while dealing with point No.2. The total exclusion claimed in Sy.Nos. 377 and 378/1B was 2.50 acres, out of which exclusion of 1.81 acres in R.S.No. 377 was granted. Exclusion in respect of balance 69 cents was refused on the ground that no land is accounted in R.S.No.378/1B. Ground B raised in the Revision is that survey No. shown in the gift deed as R.S.No. 378/1B is a mistake and the correct survey number is R.S. 378/2.

6. As per document No. 1391/1971 various lands were gifted to Saidalikutty. 1.74 acres in 253/3, 2.07 acres in 234/1A, 0.60 acres in 234/2 and 15.03 acres in 228/1 are claimed to be excluded. The Taluk Land Board excluded 5 acres in R.S. 228/1 and 1.74 acres in R.S. 253/3. The request for exclusion of 15.03 acres in R.S. 228/1 was rejected on the ground that only an extent of 5 acres was accounted in R.S.228/1.

7. Learned counsel for the petitioner submitted that the finding of the Taluk Land Board that only an extent of 5 acres in R.S. 228/1 was accounted is a factual mistake. He relied on the final order dated 29.10.1982 to show that the declarant was even directed to surrender 6.71 acres in R.S.No. 228/1. Learned counsel submits that this would indicate that the total extent accounted in R.S.No.228/1 is not 5 acres.

8. Learned Government Pleader, on instruction, submits that there are mistakes in the order passed by the Taluk Land Board and the total extent accounted in R.S.No.228/1 is not 5 acres as stated in the order , but much more.

9. In view of the fact that admittedly there are mistakes in the order passed by the Taluk Land Board, I am inclined to set aside the order passed by the Taluk Land Board and to remand the matter to the Taluk Land Board for fresh disposal.

10. The revision petitioner has raised a contention that an effective and meaningful opportunity of being heard was not afforded by the Taluk Land Board to the petitioner. It is also the contention of the petitioner that the lands included in the various gift deeds were not really identified and correct survey numbers found out and thus the total extent to be excluded is not correctly stated in the order. The petitioner is afforded an opportunity to explain and show that there are mistakes in the survey numbers in the gift deeds. For the purpose of ascertaining the real survey numbers, extent and identity of the lands covered by various gift deeds, the Taluk Land Board shall depute an authorised officer for measurement and identification. A final decision in this regard shall be taken after affording an opportunity of being heard to the petitioner. The Ceiling Case shall be disposed of within a period of six months after complying with the above directions. Mistakes shall be rectified and the actual extent to be surrendered shall be re-computed . The contentions put forward by the petitioner shall be dealt with, with reference to the report of the

authorised officer, documents and evidence, if any, on record.

The Civil Revision Petition is allowed as above.

K.T. SANKARAN,
JUDGE.

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K.T. SANKARAN, J.

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C.R.P. No.1023 OF 1999

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Dated this the 20th August, 2007

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